

**STATE OF MICHIGAN**  
**DEPARTMENT OF LABOR & ECONOMIC GROWTH**  
**OFFICE OF FINANCIAL AND INSURANCE SERVICES**  
**Before the Commissioner of Financial and Insurance Services**

In the matter of

XXXXX

Petitioner

File No. 87307-001

v

IBA Health and Life Assurance Company  
Respondent

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Issued and entered  
This 28<sup>th</sup> day of February 2008  
by Ken Ross  
Commissioner

**ORDER**

**I**

**PROCEDURAL BACKGROUND**

On January 22, 2008, XXXXX filed a request for external review with the Commissioner of Financial and Insurance Services on behalf of her minor son XXXXX (Petitioner) under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.* The Commissioner reviewed the information and accepted the request on January 29, 2008.

The Commissioner notified IBA Health and Life Assurance Company (IBA) of the external review and requested the information used in making its adverse determination. The company provided information on January 25 and 28, 2008.

The issue here can be decided by an analysis of the terms of the Petitioner's health care coverage. The Commissioner reviews contractual issues pursuant to MCL 550.1911(7). This matter does not require a medical opinion from an independent review organization.

**II**

**FACTUAL BACKGROUND**

The Petitioner receives health care benefits as an eligible dependent through his father's

group coverage at work. His mental health benefits are outlined in the IBA PPO certificate of coverage (the certificate) and its accompanying "Schedule of Benefits." The mental health benefits are administered for IBA by United Behavioral Health (UBH).

The Petitioner, born [in] 1999, has severe attention deficit hyperactivity disorder (ADHD) with mood disorder for which he receives intensive counseling and medication. The Petitioner's mother requested coverage for office visits in September and October 2007. IBA, through UBH, denied coverage for the visits, saying the Petitioner's outpatient mental health benefits had been exhausted for the year.

The Petitioner appealed, asking IBA to allow the Petitioner to use the outpatient or inpatient mental health benefits of another family member to cover his office visits. IBA maintained its denial and issued a final adverse determination dated December 5, 2007.

### **III ISSUE**

Is IBA correct in denying coverage for additional outpatient mental health services?

### **IV ANALYSIS**

#### **Petitioner's Argument**

The Petitioner's mother says that her son was diagnosed with severe ADHD with generalized mood disorder half way through his kindergarten year in school. She says the Petitioner has worked with three different doctors with only limited success. The Petitioner's counselor recommended a physician who specializes in his disorder and appointments were scheduled. The Petitioner's mother states the Petitioner desperately needs his counseling visits and periodic medication reviews and in her appeal to IBA she suggested converting other family members' mental health benefits to the Petitioner.

Claims were submitted for payment for the visits exceeding the 20 visit benefit limitation but IBA denied them. The Petitioner is now responsible for the September 11 and 26, 2007, visits with

Dr. XXXXX, an October 23, 2007, evaluation by Dr. XXXXX, and all subsequent visits through December 31, 2007.

The Petitioner thinks that IBA should let the Petitioner use the unused outpatient mental health benefits of other members or convert the Petitioner's inpatient mental health benefits to outpatient mental health benefits so the Petitioner could have more covered visits.

#### IBA Life and Health Assurance Company's Argument

IBA says the Petitioner's outpatient mental health coverage is limited to 20 visits per year as shown in the "Schedule of Benefits" (page 8):

#### **17. Mental Health Services – Outpatient**

Network and Non-Network Benefits, combined, are limited to 20 visits per Covered Person per calendar year.

IBA says the calendar year 2007 benefit of 20 visits was exhausted on August 10, 2007. IBA further says that nothing in the Petitioner's certificate allows it to convert inpatient mental health benefits to outpatient mental health benefits or let the Petitioner use another family member's outpatient mental health benefits.

IBA asserts that it correctly denied coverage for outpatient mental health visits beyond the 20 visits for the calendar year 2007.

#### Commissioner's Review

The Petitioner's mother related the Petitioner's need for additional counseling visits and medication reviews and the Commissioner understands the importance of this care for the Petitioner's progress. However, in deciding this case, the Commissioner is bound by the terms and conditions of the Petitioner's certificate unless they are contrary to state law.

The Commissioner has considered the arguments of both parties and reviewed the provisions of the certificate and concludes that IBA correctly denied coverage for more than 20 outpatient mental health visits in 2007.

The certificate limits coverage of outpatient mental health services to 20 visits per calendar

year. Nowhere in the certificate does it allow inpatient benefits to be converted to outpatient benefits, or permit the Petitioner to use the unused outpatient mental health benefits of another family member, even if treatment beyond 20 visits has been shown to be medically necessary as it appears to be in this case. None of these provisions violate state law.

The Commissioner finds that IBA processed the claims correctly according to the terms of the Petitioner's coverage.

**V  
ORDER**

The Commissioner upholds IBA Health and Life Assurance Company's adverse determination of December 5, 2007.

This is a final decision of an administrative agency. Under MCL 550.1915, any person aggrieved by this Order may seek judicial review no later than sixty days from the date of this Order in the Circuit Court for the county where the covered person resides or in the Circuit Court of Ingham County. A copy of the petition for judicial review should be sent to the Commissioner of the Office of Financial and Insurance Services, Health Plans Division, Post Office Box 30220, Lansing, MI 48909-7720.